

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KIERA S.¹,

Plaintiff,

v.

ANDREW M. SAUL, Commissioner of
Social Security,

Defendant.

Case No. 6:17-cv-1082-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued Findings and Recommendation in this case on April 22, 2021. ECF 39. Judge Sullivan recommended that this Court grant Plaintiff's Motion for an Award of Attorneys' Fees (ECF 35). No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations,

¹ In the interest of privacy, this opinion uses only the first name and the initial of the last name of the non-governmental party in this case.

“the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Sullivan’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Sullivan’s Findings and Recommendation, ECF 39.

The Court GRANTS Plaintiff’s Motion for an Award of Attorneys’ Fees (ECF 35). The Court awards Plaintiff’s counsel fees under 42 U.S.C. § 406(b) in the amount of \$27,270.25. Because the Court previously awarded Plaintiff’s counsel fees under the Equal Access to Justice Act (EAJA) in the amount of \$10,262.37, the Commissioner shall subtract the amount awarded under the EAJA and send Plaintiff’s attorney the balance of \$17,007.88, less any applicable processing or user fees fees prescribed by statute. The Commissioner shall make this payment

via check payable and mailed to Ari Halpern, at 62910 OB Riley Rd., Ste. 100, Bend, OR 97703.

Any amount withheld after all administrative and court attorney fees are paid shall be released to Plaintiff.

IT IS SO ORDERED.

DATED this 10th day of May, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge